

insisting upon the presumption of satisfaction of that judgment, to prevent its lien from being revived so as to overreach that of the judgment of 1791, under which he claimed, unqualifiedly admitted, that the judgment of 1787, had not been paid or in any manner satisfied; it was held, that the lien of the first judgment remained in full force, and bound the lands in the hands of such purchaser, as he had not only failed to plead and rely upon the lapse of time in opposition to it; but by acknowledging the judgment to be unsatisfied, thereby admitted the plaintiff's right to have execution; and consequently, the continuance of his lien. (c)

At law where the suit abates by the death of a party within the time allowed for suing out execution, or during the continuance of the lien, it may be revived by *scire facias*, so as thereby to continue the lien from the date of the judgment. And after such an abatement, the plaintiff at law, or his representative, may come in under a creditor's suit in equity, without reviving the suit at law by a *scire facias*, and be allowed the benefit of his lien as against the realty, from the date of the judgment, or as against the personality from the date of the delivery of the *feri facias* to the sheriff. As, under such circumstances, this court considers him entitled to the benefit of his lien, without requiring him to make himself out to be a judgment creditor by evidence, strictly speaking, and such as he has a right then to proceed upon at law; (d) since that lien which gave him a preference from its date not having been broken or suspended by a presumption of satisfaction or otherwise; the revival at law of the judgment to which it was incident, merely for the purpose of having it established in favour of or against the new parties would be wholly unnecessary, as all such parties, if not then before the court, might come in under such creditors' suit. (e)

According to the English law there is no positive limitation against a bill of revivor, or a *subpœna scire facias* to revive a decree; yet where there had been a lapse of fifteen years, the proceedings were stayed. (f) But in Maryland it would seem to have been long since understood, that there was a similar limitation to the issuing of an execution upon a decree as to that of issuing an execution upon a judgment at law; and that no execution can

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(c) *Ridgely v. Gartrell*, 3 H. & McH. 449; Bing. Execu. 161.—(d) *Robinson v. Tonge*, 3 P. Will. 398; *Burroughs v. Elton*, 11 Ves. 36; *Rowe v. Bant*, 1 Dick. 150.—(e) *Drewry v. Thacker*, 3 Swan. 529; *Clarke v. Ormonde*, 4 Cond. Cha. Rep. 54.—(f) *Comber's case*, 1 P. Will. 767.